



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2011 REGULAR SESSION

HOUSE BILL NO. 358

WEDNESDAY, FEBRUARY 23, 2011

The following bill was reported to the Senate from the House and ordered to be printed.

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ELAINE N. WALKER
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adles

1 AN ACT relating to assignment of death benefits.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 61.705 is amended to read as follows:

4 (1) Upon the death of a retired member of the Kentucky Employees Retirement System,
5 County Employees Retirement System, or State Police Retirement System who was
6 receiving a monthly retirement allowance based on a minimum of forty-eight (48)
7 months of service or whose retirement allowance based on a minimum of forty-
8 eight (48) months was suspended in accordance with KRS 61.637, a death benefit
9 of five thousand dollars (\$5,000) shall be paid. If the retired member had more than
10 one (1) account in the Kentucky Employees Retirement System, County Employees
11 Retirement System, or State Police Retirement System, the system shall pay only
12 one (1) five thousand dollar (\$5,000) death benefit. Application for the death benefit
13 made to the Kentucky Retirement Systems shall include acceptable evidence of
14 death and of the eligibility of the applicant to act on the deceased retired member's
15 behalf.

16 (2) The death benefit shall be paid to a beneficiary named by the retired member. Upon
17 retirement or any time thereafter, the retired member may designate on the form
18 prescribed by the board, death benefit designation, a person, the retired member's
19 estate, a trust or trustee, or a licensed funeral home, as the beneficiary of the death
20 benefit. The beneficiary for the death benefit may or may not be the same
21 beneficiary designated in accordance with KRS 61.590(1). If the beneficiary
22 designated under this section is a person and that person dies prior to the member,
23 or if the beneficiary was the retired member's spouse and they were divorced on the
24 date of the retired member's death, then the retired member's estate shall become the
25 beneficiary, unless the retired member has filed a subsequent death benefit
26 designation. If a licensed funeral home is designated as beneficiary and the licensed
27 funeral home cannot be reasonably identified or located by Kentucky Retirement

1 Systems at the time of the retired member's death, then the retired member's estate
2 shall become the beneficiary of the death benefit.

- 3 (3) If, at the time of the retired member's death, a debt to the Kentucky Retirement
4 Systems remains on his or her account, the balance owed shall be deducted from the
5 five thousand dollars (\$5,000) death benefit.

6 (4) Upon the death of a retired member, the death benefit provided pursuant to this
7 section may be assigned by the designated beneficiary to a bank or licensed
8 funeral home.

9 ➔Section 2. KRS 161.655 is amended to read as follows:

- 10 (1) Effective July 1, 2000, the Teachers' Retirement System shall:

11 (a) Provide a life insurance benefit in a minimum amount of five thousand dollars
12 (\$5,000) for its members who are retired for service or disability. This life
13 insurance benefit shall be payable upon the death of a member retired for
14 service or disability to the member's estate or to a party designated by the
15 member on a form prescribed by the retirement system; and

16 (b) Provide a life insurance benefit in a minimum amount of two thousand dollars
17 (\$2,000) for its active contributing members. This life insurance benefit shall
18 be payable upon the death of an active contributing member to the member's
19 estate or to a party designated by the member on a form prescribed by the
20 retirement system.

- 21 (2) The member may name one (1) primary and one (1) contingent beneficiary for
22 receipt of the life insurance benefit. To the extent permitted by the Internal Revenue
23 Code, a trust may be designated as beneficiary for receipt of the life insurance
24 benefit. Members may designate as beneficiaries only presently identifiable and
25 existing individuals, or trusts where otherwise permitted, without contingency
26 instructions, on forms prescribed by the retirement system. In the event that a
27 member fails to designate a beneficiary, or all designated beneficiaries predecease

the member, the member's estate shall be deemed to be the beneficiary. Any beneficiary designation made by the member, including the estate should the estate become the beneficiary by default, shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent marriage or divorce. A valid marriage license shall terminate any previously designated beneficiary, even that of a trust, and establish the spouse as beneficiary unless, subsequent proof of the marriage, the member or retired member redesignates someone other than the new spouse as the beneficiary. A final divorce decree shall terminate the beneficiary status of an ex-spouse unless, subsequent to divorce, the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.

(3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.

(4) Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.

(5) Upon the death of a member of the Teachers' Retirement System, the life insurance provided pursuant to subsection (1) of this section may be assigned by the designated beneficiary to a bank or licensed funeral home.

➔Section 3. KRS 61.690 is amended to read as follows:

(1) Except as otherwise provided by this section **and subsection (4) of Section 1 of this Act**, all retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to

1 78.852, and the accumulated contributions and cash securities in the funds created
2 under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby
3 exempt from any state, county, or municipal tax, and shall not be subject to
4 execution, attachment, garnishment, or any other process, and shall not be assigned.

5 (2) Notwithstanding the provisions of subsection (1) of this section, retirement benefits
6 accrued or accruing to any person under the provisions of KRS 61.510 to 61.705,
7 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject
8 to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and
9 141.0215.

10 (3) Qualified domestic relations orders issued by a court or administrative agency shall
11 be honored by the retirement system if:

12 (a) The benefits payable pursuant to the order meet the requirements of a
13 qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The
14 retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p)
15 in administering qualified domestic relations orders;

16 (b) The order meets the requirements established by the retirement system and by
17 subsections (3) to (11) of this section. The board of trustees of the retirement
18 system shall establish the requirements, procedures, and forms necessary for
19 the administration of qualified domestic relations orders by promulgation of
20 administrative regulations in accordance with KRS Chapter 13A; and

21 (c) The order is on the form established by the retirement system pursuant to the
22 retirement system's authority provided under paragraph (3)(b) of this
23 subsection.

24 (4) A qualified domestic relations order shall not:

25 (a) Require the retirement system to take any action not authorized under state or
26 federal law;

27 (b) Require the retirement system to provide any benefit, allowance, or other

1 payment not authorized under state or federal law;

2 (c) Grant or be construed to grant the alternate payee any separate right, title, or
3 interest in or to any retirement benefit other than to receive payments from the
4 participant's account in accordance with the administrative regulations
5 promulgated by the retirement system and as provided by subsections (3) to
6 (11) of this section; or

7 (d) Grant any separate interest to any person other than the participant.

8 (5) Any qualified domestic relations order submitted to the retirement system shall
9 specify the dollar amount or percentage amount of the participant's benefit to be
10 paid to the alternate payee. In calculating the amount to be paid to the alternate
11 payee, the court or administrative agency that is responsible for issuing the order
12 shall follow the requirements set forth in the administrative regulations promulgated
13 by the board of trustees. Notwithstanding any other statute to the contrary, the board
14 shall not be required to honor a qualified domestic relations order that does not
15 follow the requirements set forth in the administrative regulations promulgated by
16 the board of trustees.

17 (6) If the qualified domestic relations order meets the requirements established by the
18 system and by subsections (3) to (11) of this section, payments to the alternate
19 payee shall begin under the following conditions:

20 (a) If the participant is retired and is receiving a monthly benefit, the month
21 following the date the retirement system receives a qualified domestic
22 relations order that complies with the administrative regulations promulgated
23 by the retirement system and subsections (3) to (11) of this section; or

24 (b) If the participant is not retired, the month of the participant's effective
25 retirement date in which the first retirement allowance is payable to the
26 participant or the month in which the participant receives a refund of
27 contributions as provided by KRS 61.625.

1 (7) An alternate payee's benefits and rights under a qualified domestic relations order
2 shall terminate upon the earlier of:

3 (a) The death of the participant;

4 (b) The death of the alternate payee; or

5 (c) The termination of the participant's benefits under any of the provisions of
6 KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.

7 (8) An alternate payee shall not receive a monthly payment under a qualified domestic
8 relations order if the participant is not receiving a monthly retirement allowance.

9 (9) The cost of living adjustment provided to the participant pursuant to KRS 61.691
10 shall be divided between the participant and alternate payee in a qualified domestic
11 relations order as follows:

12 (a) If the order specifies the alternate payee is to receive a percentage of the
13 participant's benefit, then the cost of living adjustment shall be divided
14 between the participant and the alternate payee based upon the percentage of
15 the total benefit each is receiving upon the participant's retirement or upon the
16 date the order is approved by the retirement system, whichever is later; or

17 (b) If the order specifies that the alternate payee is to receive a set dollar amount
18 of the participant's benefit, then the order shall specify that:

19 1. The cost of living adjustment shall be divided between the participant
20 and the alternate payee based upon the percentage of the total benefit
21 each is receiving upon the participant's retirement or upon the date the
22 order is approved by the retirement system, whichever is later; or

23 2. The alternate payee shall receive no cost of living adjustment.

24 If the order does not specify the division of the cost of living adjustment as
25 required by this paragraph, then no cost of living adjustment shall be payable
26 to the alternate payee. If no cost of living adjustment is provided to the
27 alternate payee, then the participant shall receive the full cost of living

1 adjustment he or she would have received if the order had not been applied to
2 the participant's account.

3 (10) Except in cases involving child support payments, the retirement system may charge
4 reasonable and necessary fees and expenses to the recipient and the alternate payee
5 of a qualified domestic relations order for the administration of the qualified
6 domestic relations order by the retirement system. All fees and expenses shall be
7 established by administrative regulations promulgated by the board of trustees of
8 the retirement system. The qualified domestic relations order shall specify whether
9 the fees and expenses provided by this subsection shall be paid:

10 (a) Solely by the participant;

11 (b) Solely by the alternate payee; or

12 (c) Equally shared by the participant and alternate payee.

13 (11) The retirement system shall honor a qualified domestic relations order issued prior
14 to July 15, 2010, if:

15 (a) The order was on file and approved by the retirement system prior to July 15,
16 2010. All benefits, including cost of living adjustments payable to the
17 alternate payee, for orders that meet the requirements of this paragraph shall
18 not be eliminated or reduced as a result of the provisions of subsections (3) to
19 (10) of this section and KRS 61.510(27) and 78.510(26); or

20 (b) The order or an amended version of the order meets the requirements
21 established by this section and the administrative regulations promulgated by
22 the retirement system. The order shall not apply to benefit payments issued by
23 the retirement system prior to the date the order was approved by the
24 retirement system.

25 ➔Section 4. KRS 161.700 is amended to read as follows:

26 (1) Except as otherwise provided by this section and subsection (5) of Section 2 of this
27 Act, the right of a member to a retirement allowance and to the return of

1 contributions, any benefit or right accrued or accruing to any person under KRS
2 161.220 to 161.716, and the money in the various funds established pursuant to
3 KRS 161.220 to 161.716 are hereby exempt from any state or municipal tax, and
4 shall not be subject to execution, garnishment, attachment, or other process, and
5 shall not be assigned.

6 (2) Notwithstanding subsection (1) of this section, retirement benefits accrued or
7 accruing to any person under this retirement system on or after January 1, 1998,
8 shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS
9 141.010 and 141.0215.

10 (3) Retirement allowance, disability allowance, accumulated contributions, or any other
11 benefit under the retirement system shall not be classified as marital property
12 pursuant to KRS 403.190(1), except to the extent permitted under KRS 403.190(4).
13 Retirement allowance, disability allowance, accumulated contributions, or any other
14 benefit under the retirement system shall not be considered as an economic
15 circumstance during the division of marital property in an action for dissolution of
16 marriage pursuant to KRS 403.190(1)(d), except to the extent permitted under KRS
17 403.190(4).

18 (4) Qualified domestic relations orders issued by a court or administrative agency shall
19 be honored by the retirement system if:

20 (a) The benefits payable pursuant to the order meet the requirements of a
21 qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The
22 retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p)
23 in administering qualified domestic relations orders;

24 (b) The order meets the requirements established by the retirement system and by
25 subsections (4) to (12) of this section. The board of trustees of the retirement
26 system shall establish the requirements, procedures, and forms necessary for
27 the administration of qualified domestic relations order by promulgation of

1 administrative regulations in accordance with KRS Chapter 13A; and

2 (c) The order is on the form established by the retirement system pursuant to the
3 retirement system's authority provided under paragraph (b) of this subsection.

4 (5) A qualified domestic relations order shall not:

5 (a) Require the retirement system to take any action not authorized under state or
6 federal law;

7 (b) Require the retirement system to provide any benefit, allowance, or other
8 payment not authorized under state or federal law;

9 (c) Grant or be construed to grant the alternate payee any separate right, title, or
10 interest in or to any retirement benefit other than to receive payments from the
11 participant's account in accordance with the administrative regulations
12 promulgated by the system and as provided by subsections (4) to (12) of this
13 section; or

14 (d) Grant any separate interest to any person other than the participant.

15 (6) Any qualified domestic relations order submitted to the retirement system shall
16 specify the dollar amount or percentage amount of the participant's benefit to be
17 paid to the alternate payee. In calculating the amount to be paid to the alternate
18 payee, the court or administrative agency that is responsible for issuing the order
19 shall follow the requirements set forth in the administrative regulations promulgated
20 by the board of trustees. Notwithstanding any other statute to the contrary, the board
21 shall not be required to honor a qualified domestic relations order that does not
22 follow the requirements set forth in the administrative regulations promulgated by
23 the board of trustees.

24 (7) If the qualified domestic relations order meets the requirements established by the
25 system and by subsections (4) to (12) of this section, payments to the alternate
26 payee shall be distributed under the following conditions:

27 (a) If the participant is retired and is receiving a monthly benefit, the month

1 following the date the retirement system receives a qualified domestic
2 relations order that complies with the administrative regulations promulgated
3 by the retirement system and subsections (4) to (12) of this section; or

4 (b) If the participant is not retired, the month of the participant's effective
5 retirement date in which the first retirement allowance is payable to the
6 participant or the month in which the participant receives a refund of
7 contributions as provided by KRS 161.470(6).

8 (8) An alternate payee's benefits and rights under a qualified domestic relations order
9 shall terminate upon the earlier of:

10 (a) The death of the participant;

11 (b) The death of the alternate payee; or

12 (c) The termination of benefits to the participant under any provision of KRS
13 161.220 to 161.716.

14 (9) An alternate payee shall not receive a monthly payment under a qualified domestic
15 relations order if the participant is not receiving a monthly retirement allowance.

16 (10) The cost of living adjustment provided to the participant pursuant to KRS 161.620
17 shall be divided between the participant and alternate payee in a qualified domestic
18 relations order as follows:

19 (a) If the order specifies the alternate payee is to receive a percentage of the
20 participant's benefit, then the cost of living adjustment shall be divided
21 between the participant and the alternate payee based upon the percentage of
22 the total benefit each is receiving upon the participant's retirement or upon the
23 date the order is approved by the retirement system, whichever is later; or

24 (b) If the order specifies that the alternate payee is to receive a set dollar amount
25 of the participant's benefit, then the order shall specify that:

26 1. The cost of living adjustment shall be divided between the participant
27 and the alternate payee based upon the percentage of the total benefit

1 each is receiving upon the participant's retirement or upon the date the
2 order is approved by the retirement system, whichever is later; or

3 2. The alternate payee shall receive no cost of living adjustment.

4 If the order does not specify the division of the cost of living adjustment as
5 required by this paragraph, then no cost of living adjustment shall be payable
6 to the alternate payee. If no cost of living adjustment is provided to the
7 alternate payee, then the participant shall receive the full cost of living
8 adjustment he or she would have received if the order had not been applied to
9 the participant's account.

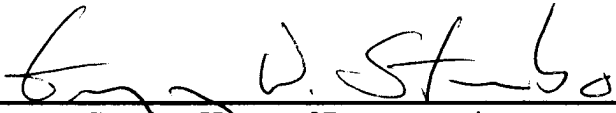
10 (11) Except in cases involving child support payments, the retirement system may charge
11 reasonable and necessary fees and expenses to the recipient and the alternate payee
12 of a qualified domestic relations order for the administration of the qualified
13 domestic relations order by retirement system. All fees and expenses shall be
14 established by the administrative regulations promulgated by the board of trustees
15 of the retirement system. The qualified domestic relations order shall specify
16 whether the fees and expenses provided by this subsection shall be paid:

17 (a) Solely by the participant;

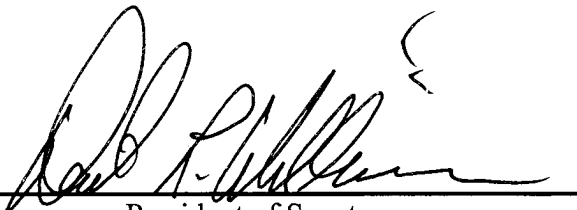
18 (b) Solely by the alternate payee; or

19 (c) Equally shared by the participant and alternate payee.

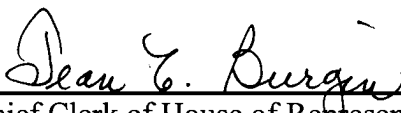
20 (12) The retirement system shall honor a qualified domestic relations order issued prior
21 to July 15, 2010, for prospective benefit payments if the order or an amended
22 version of the order meets the requirements established by this section and the
23 administrative regulations promulgated by the retirement system. The order shall
24 not apply to benefit payments issued by the retirement system prior to the date the
25 order was approved by the retirement system.



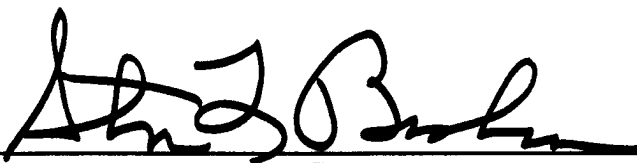
Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3-16-11